

## **REMARKS**

Claims 1-16 are pending in the application. Claims 1-16 are rejected. Claim 11 is objected to. Claims 1, 8, 11 and 12 are herein amended. Claims 17-30 are herein added. Applicants request reconsideration in light of the amendments and the following remarks.

### Summary of Rejections and Objections

- Claims 1-10 and 12-16 are rejected under 35 U.S.C. §102(b) as being anticipated by Farrington (U.S. 4,941,011).
- Claim 11 is rejected under 35 U.S.C. §103(a) as being allegedly obvious over Farrington in view of Johnson (U.S. 4,423,936).
- Claim 11 is objected to because of the following informalities: Claim 11 cannot depend on itself and “said flash unit” lacks antecedent basis.

### Claim Amendments

Applicants are herein amending claim 11 to correct claim dependency. No new matter has been added.

Applicants are herein amending claims 1, 8 and 12 to provide clarification regarding the functionality of the flash unit. No new matter has been introduced by the amendment of claims 1, 8 and 12. Support for the amendments may be found, inter alia, in the specification, para. [0028], lines 14-19.

Applicants are herein adding new claims 17-27 directed to an electronic camera. No new matter has been introduced by new claims 17-27. Support for these claims may be found, inter alia, in the specification, para. [0018], line 12 – [0020], line 27; and in the claims as originally filed.

Applicants are herein added new claim 28 directed to a method for electronic image capture. No new matter has been introduced by new claim 28. Support for this claim may be found, inter alia, in the specification, para. [0012], lines 9-17; and in the claims as originally filed.

Applicants are herein adding new claims 29 and 30 directed to an electronic image capture device adapted for capturing an image scene. No new matter has been introduced by

new claims 29 and 30. Support for these claims may be found, inter alia, in the specification, page 2, line 21 – page 3, line 4.

Claim Objections

Claim 11 is objected to as depending on itself and because the phrase “said flash unit” allegedly lacks antecedent basis. Applicants are herein amending claim 11, thereby rendering the objection moot.

Claim Rejections under 35 U.S.C. §102(b)

*Claims 1-10 and 12-16*

Claims 1-10 and 12-16 are rejected under 35 U.S.C. §102(b) as being allegedly anticipated by Farrington. Applicants submit that Farrington fails to disclose (1) a variable amount of fill flash energy (as found in claim 1) or illuminating said flash unit a variable amount (as found in both claims 8 and 12); and (2) an electronic image capture device adapted for capturing an image scene as required by claim 1 and its dependent claims, claim 8 and its dependent claims and claim 12 and its dependent claims. Applicant traverses the rejections and requests reconsideration thereof.

As amended, claim 1 and its dependent claims, claim 8 and its dependent claims, and claim 12 and its dependent claims require that the flash unit have a *variable* light output. Claim 1 specifically requires an apparatus wherein the exposure control system is adapted to control said scanning aperture shutter and a flash unit in response to sensed light energy at said photocell to control a *variable* amount of fill flash energy received by said electronic image capture system in relation to ambient light energy received by said electronic image capture system during image capture. Claim 8 specifically requires an apparatus wherein the exposure control system is adapted to control an amount of fill flash energy received from said image scene in relation to visible ambient light energy received from said image scene during image capture by illuminating said flash unit *a variable amount* once a predetermined amount of ambient visible spectrum energy is sensed by said photocell unit and by extinguishing said flash unit once a predetermined amount of infrared energy is sensed by said photocell unit. Claim 12 specifically requires a method for electronic image capture

comprising the step of controlling said scanning aperture shutter and a flash unit during image capture in response to said sensing to cause a predetermined ratio of fill flash light energy to ambient light energy to be received by said electronic image capture device including illuminating said flash unit *a variable amount* once a predetermined amount of ambient light energy is sensed during image capture. Farrington fails to disclose a flash unit having a **variable** light output. Farrington discloses that a flashtube is fired at full output that provides a predetermined (a fixed) percentage (preferably 25 percent) of the total scene illumination. The remaining portion (75 percent) of the total scene illumination is provided by ambient scene light. Farrington does not disclose the required element of a variable light output. Accordingly, the anticipation rejection of claim 1 and its dependent claims, claim 8 and its dependent claims; and claim 12 and its dependent claims, as amended is improper.

Claim 1 and its dependent claims, as well as, claim 8 and its dependent claims also require an electronic image capture device *adapted for capturing an image scene*. Farrington does not disclose, teach, or suggest this element.

More specifically, the Office identifies the combination of element 32 of Figure 1 (a visible light sensor) and element 28 of Figure 1 (a non-visible frequency sensor) as the electronic image capture device of the instant invention.<sup>1</sup> Farrington fails to disclose, teach or suggest, inter alia, an electronic image capture device adapted for capturing an image scene. Even if the combination of elements 32 and 28 are the same or the equivalent of the electronic image capture device of the instant invention, and Applicants are not conceding that this is so, the combination of elements 32 and 28 is not adapted for capturing an image scene. Farrington fails to disclose, teach, or suggest that elements 32 and 28 of Figure 1 separately, or in combination, capture an image scene or store a digital image to memory. Accordingly, the rejection of claim 1 and its dependent claims and the rejection of claim 8 and its dependent claims is improper.

Since Farrington does not disclose each and every element of claim 1 and its dependent claims, claim 8 and its dependent claim and claim 12 and its dependent claims either explicitly or inherently, Farrington does not anticipate claim 1 and its dependent claim,

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<sup>1</sup> Note: The Office refers to element 38 as the non-visible frequency sensor. However, the non-visible frequency sensor is element 28 and will be referred to as such hereinafter.

claim 8 and its dependent claims and claim 12 and its dependent claims. Accordingly, the rejection of claims 1, 8 and 12 and their respective dependent claims are improper.<sup>2</sup>

Furthermore, claim 6 requires the exposure control system is adapted to generate control signals for a detachable flash unit. The Office alleges that Farrington teaches a camera provided with an electronic flash apparatus together with the apparatus, where the word “together” can be translated in many ways, but specifically in this case, that the flash apparatus can be detachable or internally built in the camera. Applicant notes that Farrington actually recites “the camera 10 is also provided with an electronic flash apparatus 34 together with apparatus for controlling its energization in order to provide a portion of the exposure value to illuminate a scene to be photographed.” “Together” does not mean detachable. “Together” means *into or in union, proximity, contact, or collision, as two or more things*. See, [www.dictionary.com](http://www.dictionary.com). Accordingly, Farrington fails to disclose, teach or suggest the limitations of claim 6.

Claim 10 requires said shutter includes separate, proportionately operable, variable apertures for said image capture device and said photocell unit. Farrington fails to disclose, teach or suggest that the shutter includes separate, proportionately operable, variable apertures for the image capture device and the photocell unit. As previously mentioned, the Office identified the combination of elements 32 and 28 as the electronic image capture device of the instant invention. Both elements 32 and 28 have a photocell. As a result, it is impossible for both element 32 and its photocell and for element 28 and its photocell to each separately have separate, proportionately operable, variable apertures. Accordingly, Farrington fails to disclose, teach or suggested the limitations of claim 10.

Claim 15 requires said scanning aperture shutter includes separate, proportionately operable, variable apertures for image capture and said step of sensing. Farrington fails to disclose, teach or suggest that the shutter includes separate, proportionately operable, variable apertures for the image capture device and said step of sensing. As previously mentioned, the

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<sup>2</sup> In the rejections of claims 2 and 3, the Office has identified the exposure control system as element 48 of Figure 1 (Farrington) or the exposure control electronics module. Applicant contends that the referenced section, Column 3, line 57-68 to Column 4, line 1-4, does not refer to the exposure control electronic module of Figure 1 of Farrington. The Applicant is asking that the Office provide clarification as to the identification of the exposure control system in Farrington.

Office identified the combination of elements 32 and 28 as the electronic image capture device of the instant invention. Element 32 is a visible light sensor. Likewise, element 28 is a non-visible frequencies sensor. Both elements 32 and 28 have an opening or an aperture. However, because the image capture device, as identified by the Office, is also the sensor(s) of both visible ambient light energy and infrared energy received from an image scene, the apertures of image capture device are the apertures of the sensors of visible ambient light energy and infrared energy received from the image scene. As a result, the scanning aperture does not include separate, proportionately operable, variable apertures for image capture and the step of sensing. Accordingly, Farrington fails to disclose, teach or suggest the limitations of claim 15; therefore, the rejection of claim 15 is improper.

Claim 16 requires said step of controlling includes extinguishing said flash unit once a predetermined amount of infrared spectrum energy is sensed during flash unit illumination. The Office alleges that Farrington discloses the step of controlling includes extinguishing said flash unit once a predetermined amount of infrared energy is sensed during flash unit illumination. However, the Applicant contends that the cited portion, Column 3, line 57-68 to Column 4, line 1-4, of Farrington fails to disclose, teach or suggest such a limitation. Instead, Farrington discloses that during pre-exposure flash, the flash tube is on for 35 microseconds until the thyristor extinguishes the light output of the flash tube. Specification, column 6, lines 61-65. Because the flash tube is on for a predetermined amount of time, the flash tube is not extinguished based upon the amount of infrared spectrum energy sensed during flash unit illumination. During flash illumination, the flashtube is fired at full output to illuminate the scene being photographed. During this period of time, the light transmitted to the film plane is comprised of both artificial and ambient light. Specification, column 7, lines 25-35. As artificial light may contain both visible and infrared spectrum energy, it cannot be presumed that the flash tube when extinguished is extinguished when a predetermined amount of infrared spectrum energy is sensed during flash unit illumination. Accordingly, Farrington fails to disclose, teach or suggest the limitations of claim 16; therefore, the rejection of claim 16 is improper.

Based on the foregoing, Applicant submits that Farrington does not anticipate claims 1-10 and 12-16. Applicant, therefore, requests withdrawal of the rejection under 35 U.S.C. §102(b).

Claim Rejections under 35 U.S.C. §103(a)

*Claim 11*

Claim 11 is rejected under 35 U.S.C. §103(a) as being allegedly obvious over Farrington in view of Johnson. Applicant respectfully traverses this ground of rejection with respect to the amended claim and requests reconsideration thereof. MPEP §2143.03 teaches “[t]o establish a prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Claim 11, as amended, depends from claim 8 and adds further elements thereto. Therefore, claim 11 requires (1) illuminating said flash unit a variable amount; and (2) an electronic image capture device adapted for capturing an image scene. Applicant submits that for at least the reasons stated above with respect to patentability of claim 8, Farrington, does not disclose at least these elements and Johnson does not remedy these deficiencies. As a result, Farrington, alone or in combination with Johnson, does not disclose, teach or suggest illuminating said flash unit a variable amount and an electronic image capture device adapted for capturing an image scene. Therefore, the Applicant requests the rejection under 35 U.S.C. §103(a) be withdrawn and solicits allowance of claim 11.

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**PATENT**

## **CONCLUSION**

In view of the foregoing remarks, Applicant respectfully submits that claims 1-30, as amended, are in condition for allowance and entry of the present amendment and notification to that effect is earnestly requested. If necessary, the Examiner is invited to telephone Applicant's attorney at the number provided to facilitate prosecution of the application.

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/Carmen V. Lyles-Irving/  
Carmen V. Lyles-Irving  
Registration No. 59,078

Woodcock Washburn LLP  
Cira Centre, 12<sup>th</sup> Floor  
2929 Arch Street  
Philadelphia PA 19104-2891  
Telephone: (215) 568-3100  
Facsimile: (215) 568-3439